

What is an ERISA health plan¹?

- Enacted in 1974; Employee Retirement Income Security Act
- Federal regulatory construct for employee benefit plans (including health plans)
- Frees multi-state employers from inconsistent state regulation
- Sets requirements for:
 - Plan participation, funding, vesting of benefits
 - Standards for reporting, disclosure, duties
- Does not apply to government or church healthcare plans²

Substantive provisions outlined:

- Administrator's fiduciary standards
- Notice requirements to employees
- Federal government reporting
- Minimum benefit standards (COBRA coverage, guaranteed plan issuance, pre-existing condition exclusion prohibition, nondiscrimination in premiums and eligibility, maternal hospital stays, post-mastectomy reconstructive surgery, and mental health parity³)⁴

Which means:

- A state may not require ERISA plan administrators to offer benefits or set the amount an employer must contribute to any coverage, or participate in certain state programs, such as
 - Claim processing
 - Coverage mandates
 - Eligibility determination
 - Incentive mandates
 - Health care claims and other information relating to health care services to a state agency for compilation in an all-inclusive health care database⁵

How would you get around that exemption?

- Congress is the only body that can grant an ERISA waiver, for example, to a state implementing broad health care reform. **They have never granted such a waiver.**

¹ <https://www.cga.ct.gov/2007/rpt/2007-R-0131.htm>

² 29 U.S.C. § 1003

³ Note that self-insured non-governmental plans may elect to opt out of four federal mandates: Newborns' and Mothers' Health Protection Act, Mental Health Parity and Addiction Equity Act, required coverage for reconstructive surgery following a mastectomy, and Michelle's law (coverage for dependent students on a medically necessary leave of absence).

⁴ Note that some of these benefits will not apply if the plan qualifies as a "grandfathered" plan under PPACA.

⁵ Gobeille v. Liberty Mutual Insurance Co., 2015